

***United States Court of Appeals
for the Second Circuit***



APPENDIX

77-6006

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

MARY COX, as Administratrix of the
Goods, Chattels and Credits of
Bobby Cox, deceased,

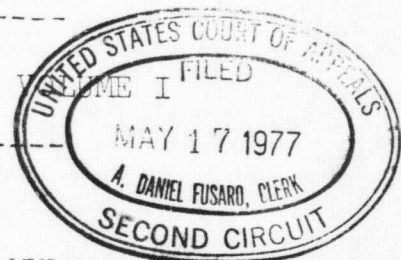
plaintiff-appellant,

- against -

ADMINISTRATOR OF THE VETERANS ADMINI-
STRATION, VETERANS ADMINISTRATION,
UNITED STATES OF AMERICA,

defendants-appellees.

A P P E N D I X



GERALD MURRAY, ESQ.
90-61 Sutphin Boulevard
Jamaica, New York 11435
attorney for plaintiff-appellant

PAGINATION AS IN ORIGINAL COPY

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CIVIL DOCKET
STATES DISTRICT COURT

JUDGE WINFIELD

JA

75 CIV. 3226

Jury demand date:

26 Rev.

75-3226 TITLE OF CASE 07-01-75 2 360 1
COX, as Administratrix of the Goods,
Bills and Credits of Bobby Cox,
deceased
VS
ADMINISTRATOR OF THE VETERANS ADMINISTRATION
VETERANS ADMINISTRATION
UNITED STATES OF AMERICA

0802 ATTORNEYS 75-3226

For plaintiff:

Gerald Murray
90-61 Sutphin Blvd.
Jamaica, NY 11435 739-6672

For defendant:

US Attorney, Civil Div.
1 St. Andrews Plaza
New York, NY 10007

STANDARD RECORD	COSTS	DATE	NAME OR RECEIPT NO.	REC.	DISB.
X	Clerk	JUL 1	1975 54099		
✓	Marshal				
tion: wrongful death	Deputy fee				
Tort Claims Act	Witness fees				
at:	Depositions				

DATE

PROCEEDINGS

Date
Judge

- 07-01-75 -1- Filed complaint and issued summons.
- 07-16-75 -2- Filed summons with marshal's return served--Veteran Administration by I. Schmitterberg on 7-9-75
Atty. Gen
Dept. of Justice Wash. D. C. 20530 #285060
- 09-16-75 -3- Filed stip. and order ext. deft. time to answer to the complaint to 9-23-75 --Weinfeld, J.
- 09-01-75 -4- Filed stip. and order ext. deft. time to answer to the complaint to 10-19-75 --Weinfeld, J.
- 10-17-75 -5- Filed stip. and order ext. deft. time to answer to 10-28-75--Weinfeld, J.
- 11-05-75 -6- Filed stip. and order ext. deft. time to answer to 11-28-75--Weinfeld, J.
- 12-09-75 -7- Filed stip. and order ext. deft. time to answer to 12-19-75--Weinfeld, J.
- 02-23-76 -8- Filed stip. and order ext. deft. time to answer to 3-8-76--Weinfeld, J.
- 03-30-76 9) Filed AMENDED COMPLAINT, with affidvt. of service.
- 04-10-76 10) Filed plttf's notice to take deposition of Maty Cox on 3-7-76
- 07-19-76 11) Filed ANSWER of Defts.
- 08-05-76 12) Filed Defts. interrog and request for answers
- 08-30-76 13) Filed deft's notice to take depositions of L.J. Kurten, MD. et.al. on 8-7-76. -- 6 subp. issued.
- 09-20-76 14) Filed plaintiff's affirmation re extension of pre-trial discovery.
- 09-23-76 15) Filed defts notice to take deposition of Bernard Brannum, et.al. on 10-5-76 - subp. issued.
- 10-05-76 16) Filed defts notice to take depositions of Bernard Brannum, et.al. - subp. issued.
- 11-09-76 17) Filed consented to pre-trial order. So ordered, Weinfeld, J.
- 11-11-76 18) Filed defts. proposed findings of facts and conclusions of law.
- 11-11-76 19) Filed defts. trial memorandum.
- 11-12-76 20) Filed plttf's memorandum of law.
- 12-21-76 21) Filed deposition of Josephine L. Perrine dtd. 8-31-76
- 12-21-76 22) Filed deposition of El oise Roberts dtd. 8-31-76
- 12-21-76 23) Filed deposition of Bernard Brannum dtd. 10-18-76
- 12-09-76 == NON-JURY TRIAL begun before Weinfeld, J.
- 12-10-76 == trial continued
- 12-20-76 == trial continued and concluded. -- Judges decision for the defendant Plttf. has failed to sustain her burden of proof. Complaint is dismissed on its merits. -- Weinfeld, J.
- 12-21-76 24) Filed JUDGMENT AND ORDER that defendants have judgment against the dismissing the complaint - Clerk. m/n
- 12 28 76 25) received from Chambers and filed: MANEDED VERIFIED COMPLAINT with affidvt of service
- 12 28-76 26) Filed Opinion #45475 The Court finds in favor of defendants and dismissing plaintiffs complaint -- Weinfeld, J. m/n dated 12-20-76 (for judgment see #24)
- 01-03-77 27) Filed plaintiffs notice of appeal to the USCA from judgment #24. -- copy mailed to US Atty.
- 01-30-77 28) Filed transcript of record of proceedings dtd. 12-09-76
- 01-31-77 29) Filed transcript of record of proceedings dtd. 12-20-76
- 2-7-77 30) Filed transcript of record of proceedings dtd. 12-20-76

CIVIL DOCKET CONTINUATION SHEET

75 CIV 3226 EW

PLAINTIFF

Mary McCoy

DEFENDANT

Veterans Administration

DOCKET NO.

PAGE 30

DATE

NR.

PROCEEDINGS

02-23-77 31

Filed plff's affidav. and unsigned order requesting to proceed
as a pauper on appeal with leave to amend. Denied. --
Wainfold, J. p/a.

4-8-77 32.

Filed notice that original record on appeal has been Cert
transmitted to the USCA.

4-19-77 33.

Filed notice that supplemental record on appeal has been t
to the USCA.

01-10-77 34

Filed stipulation designating exhibits to the USCA

12
17

1A2

DC-111A REV

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT

MARY COX, as Administratrix of the
Goods, Chattels and Credits of
BOBBY COX, deceased,

plaintiff,

- against -

AMENDED
VERIFIED
COMPLAINT

Administrator of the Veterans
Administration, Veterans Administration
and United States of America,

defendants.

Plaintiff by her attorney, Gerald Murray, alleges:

FOR A FIRST CAUSE OF ACTION:

FIRST: Plaintiff at all times hereinafter mentioned was and now is a citizen of the United States resident and domicile in the State of New York, County or Albany.

SECOND: That on or about the 11th day of October, 1972, the above-named Bobby Cox died in Harnett, North Carolina and heretofore on or about the 13th day of March, 1973, Mary Cox was duly appointed Administratrix of the Goods, Chattels and Credits which were of Bobby Cox, deceased by the Surrogate's Court State of New York, County of Queens, the same being a Court of competent jurisdiction and the plaintiff thereupon qualified to prosecute the action and thereafter acted and is now properly acting as Administratrix.

THIRD: That on the 14th day of March, 1973, and within

two years after the occurred action, a proceeding was commenced plaintiff caused a claim in writing executed by and on behalf of the claimant, containing a statement of the name and post office address of the claimant and of her attorney, the nature of the claim, the time when, the place where and the nature in which the claim arose, and the items of damage or injuries claimed to have been sustained, so far as thier practicable to be served upon the defendant Veterans Administration, by mailing a copy thereof to Veterans Administration, 252 Seventh Avenue, New York, New York 10001; and upon Veterans Administration 301 North Main Street, Winston Salem, North Carolina 27102 on March 18th, 1974 and within two years after the occurred action, a proceeding was commenced plaintiff causes a claim in writing executed by and on behalf of the claimant, containing a statement of the name and post office address of the claimant and of her attorney, the nature of the claim, the time when, the place where and the nature in which the claim arose, and the items of damages or injuries claimed to have been sustained, so far as their practicable.

That this action was commenced within six months after the rejection of this claim which letter was dated February 27, 1975.

FOURTH: That Volume 28, Section 1346b of the United States Code states that the District Courts shall have exclusive jurisdiction of all civil actions on claims against the United States for money damages for personal injuries.

FIFTH: That Volume 28 Section 1402b of the United States Code states any civil action on a tort claim against the United

States under section (b) of Section 1346 of the title may be prosecuted only in the judicial district where the plaintiff resides wherein the act or omission complained of occurred. Venue in the Southern District Court is based on the facts that acts or omission complained of principally occurred in the county of New York, State of New York.

SIXTH: That defendant, the United States of America, through its employees and through the Veterans Administration and Federal Agency, at all times hereinafter mentioned did and does operate hospitals at Fayetteville, North Carolina 28301, and 24th Street, and 1st Avenue, New York, New York.

SEVENTH: That in July of 1972 the decedent was admitted to the Veterans Administration Hospital at 24th Street and 1st Avenue, New York, and thereafter the decedent by reason of the carelessness and negligence of the defendant and the United States of America, namely the Veterans Administration Hospital in the performance of their duties in allowing or permitting said decedent to sign himself out of said hospital.

EIGHTH: That on or about the 20th and 21st days of August, 1972, the decedent was admitted to the Veterans Administration Hospital at Fayetteville, North Carolina and thereafter the decedent by reason of the carelessness and negligence of the defendant the United States of America, namely the Veterans Administration, its agents, servants and employees in the ownership, operation and control of said Veterans

Administration Hospital, in the performance of their duties in releasing the decedent instead of sending decedent to another facility or in keeping him which could better care of decedent.

NINTH: That on or about the 20th day of September, 1972, the decedent was refused admittance to the Veterand Administration Hospital at 24th Street and 1st Avenue, New York, New York, on the grounds that decedent had signed himself out previously that the defendant the United States of America, namely the Veterans Administration its agents, servants and employees were careless and negligent in the ownership, operation and control of said Veterans Administration Hospital, in the performance of their duties in not admitting decedent to said hospital.

TENTH: That on or about the 11th day of October, 1972, after the foregoing events decedent committed suicide due to the negligence and carelessness of the United States of America, and/or Veterans Administration, its agents, servants and employees in performance of their duties, and causing him to sustain injuries painful and permanent injuries to his person from which he died on October 11th, 1972.

ELEVENTH: Decedent Bobby Cox, left him surviving his mother who was 50 years of age at the time of decedent's death, and a sister, plaintiff herein. Bobby Cox was 28 years of age at the time of his death and prior thereto was in good health. Sober and industrious and said next of kin of said decedent

were dependent upon him for their partial support and maintenance. Said plaintiff has expended the sum of \$1,702.00 for funeral expenses of said deceased to date, all the damage of the next of kin of said deceased in the sum of ONE MILLION DOLLARS (\$1,000,000.00).

FOR A SECOND CAUSE OF ACTION:

TWELFTH: Plaintiff repeats and realleges each and every allegation contained in paragraphs of this complaint numbered "FIRST" to "TENTH" with the same force and effect as if herein fully set forth at length.

THIRTEENTH: That the plaintiff's intestate suffered a great deal of pain and suffering as a result of the said accident.

FOURTEENTH: That the estate has paid or has become liable for medical and funeral expenses as a result of said accident all to the damage of the estate of said deceased in the sum of ONE HUNDRED THOUSAND DOLLARS (\$100,000.00) including special damages consisting of medical and funeral expenses and other expenses.

FOR A THIRD CAUSE OF ACTION:

FIFTEENTH: Plaintiff repeats and realleges each and every allegation contained in paragraphs of this complaint numbered "FIRST" to "SIXTH" with the same force and effect as if herein fully set forth at length.

SIXTEENTH: That on or in July of 1972, plaintiff was allowed to sign himself out of said Veterans Administration Hospital at 24th Street and 1st Avenue, New York, New York and thereafter admitted to Veterans Administration Hospital in Fayetteville, North Carolina on or about August 20th or 21st, 1972 and thereafter released and refused admittance at the Veterans Hospital at 24th Street and 1st Avenue, New York, New York, on September 20th, 1972, all of which was in the sole control of the defendant under such circumstances as this is the ordinary course of events and in the exercise of ordinary and proper care the plaintiff decedent would not have sustained the hereinafter alleged injuries and death as a result of said accident.

SEVENTEENTH: Deceased, Bobby Cox, left him surviving his mother, who was 50 years of age at the time of decedent's death, and a sister, plaintiff herein, deceased Bobby Cox was 28 years of age at the time of his death and prior thereto was in good health, sober and industrious and said next of kin of said decedent were dependent upon him for their partial support and maintenance. Said plaintiff has expended the sum of \$1,702.00 for funeral expenses of said deceased in the sum of \$1,000,000.00 ONE MILLION DOLLARS.

FOR A FOURTH CAUSE OF ACTION:

EIGHTEENTH: Plaintiff repeats and realleges each and every allegation contained in paragraphs of this complaint numbered "FIRST" to "SIXTH", "THIRTEENTH" and "FOURTEENTH" with the same

8A

force and effect as if herein fully set forth at length.

WHEREFORE, the plaintiff demands judgment against the defendant in the sum of \$1,000,000.00 ONE MILLION DOLLARS in the first and/or third causes of action in the sum of \$100,000.00 ONE HUNDRED THOUSAND DOLLARS for the second and/or fourth causes of action together with interest, costs and disbursements of this action.

Dated: Jamaica, New York
April 26th, 1976.

GERALD MURRAY

attorney for plaintiff
office and P. O. address
90-61 Sutphin Boulevard
Jamaica, New York 11435
212-RE9-6672

STATE OF NEW YORK, COUNTY OF QUEENS

The undersigned, an attorney admitted to practice in the courts of New York State,

☐ Certification
By Attorney

certifies that the within

☐ Attorney's
Affidavit

shows: deponent is

plaintiff

the attorney(s) of record for
in the within action; deponent has read the foregoing
and knows the contents thereof; the same is true to
deponent's own knowledge, except as to the matters therein stated to be alleged on information and belief, and as to those matters deponent believes it to be true. This verification is made by deponent and not by

true to deponent's own knowledge, except as to the matters therein stated to be alleged on information and belief, and as to those matters deponent believes it to be true. This verification is made by deponent and not by
plaintiff because your deponent does not have an office in the
county in which plaintiff resides

The grounds of deponent's belief as to all matters not stated upon deponent's knowledge are as follows:
per file and discussions with plaintiff

The undersigned affirms that the foregoing statements are true, under the penalties of perjury.
Dated: , 197

STATE OF NEW YORK, COUNTY OF QUEENS

The name signed must be printed beneath

GERALD MURRAY

Check Applicable Box

☐ Individual
Verification

the foregoing

the

deponent's own knowledge, except as to the matters therein stated to be alleged on information and belief, and as to those matters deponent believes it to be true.

being duly sworn, deposes and says: deponent is
in the within action; deponent has read
and knows the contents thereof; the same is true to
deponent's own knowledge, except as to the matters therein stated to be alleged on information and belief, and as to those matters deponent believes it to be true.

☐ Corporate
Verification

the
a

of

corporation,

foregoing

is true to deponent's own knowledge, except as to the matters therein stated to be alleged upon information and belief, and as to those matters deponent believes it to be true. This verification is made by deponent because

in the within action; deponent has read the
and knows the contents thereof; and the same
is a corporation and deponent is an officer thereof.

The grounds of deponent's belief as to all matters not stated upon deponent's knowledge are as follows:

Sworn to before me on

197

The name signed must be printed beneath

STATE OF NEW YORK, COUNTY OF QUEENS

SS.:

is over 18 years of age and resides at Jericho, N.Y.

GERALD MURRAY being duly sworn, deposes and says: deponent is not a party to the action,

☒ Affidavit
of Service
By Mail

On May 3,

1976

deponent served the within

AMENDED VERIFIED COMPLAINT

attorney(s) for defendant

Stuart Parker

in this action, at

U.S. Court House, Foley Square NY

by depositing a true copy of same enclosed in a post-paid properly addressed wrapper, in — a post office — official
depository under the exclusive care and custody of the United States Postal Service within the State of New York.

☐ Affidavit
of Personal
Service

On

197

at

deponent served the within

upon

herein, by delivering a true copy thereof to the
person so served to be the person mentioned and described in said papers as the

personally. Deponent knew the
therein.

Sworn to before me on

May 3,

1976

Harry S. Cohen

HARRY S. COHEN
Notary Public, State of New York

The name signed must be printed beneath
GERALD MURRAY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Filed
4-16-76

MAY COX, as administratrix of the
Goods, Chattels and Credits of
BOBBY COX, deceased,

10A

Plaintiff,

ANSWER

75 Civ. 3226 (EW)

-v-

ADMINISTRATOR OF THE VETERANS
ADMINISTRATION, VETERANS
ADMINISTRATION and UNITED STATES
OF AMERICA,

Defendants.

The defendants by their attorney Robert B. Piske, Jr., United States Attorney for the Southern District of New York, for their answer to the amended complaint:

1. Deny knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 1.
2. Deny the allegations in paragraph 2, except admit that Bobby Cox died in Harnett, North Carolina, on or about the 11th day of October, 1972 and that Mary Cox was appointed Administratrix of the Goods, Chattels and Credits of Bobby Cox, deceased, by the Surrogate's Court of New York, County of Queens on or about the 13th day of March, 1973.
3. Deny the allegations in the second sentence of paragraph 5.
4. Deny the allegations in paragraph 7, 8, 9 and 10, except admit that in July 1972, Bobby Cox was admitted to Veterans Administration Hospital, 24th Street and 1st Avenue, New York, New York, that on or about August 20, 1972 Bobby Cox was admitted to Veterans Administration Hospital, Fayetteville, North Carolina, and that Bobby Cox

died on or about October 11, 1972.

11A

5. Deny the allegations as to damages in paragraph 11 and deny knowledge or information sufficient to form a belief as to the truth of the other allegations in paragraph 11.

6. With regard to paragraph 12, repeat and recalculate each and every answer contained in paragraphs 1 through 5 of this answer with the same force and effect as though set forth at length herein.

7. Deny the allegations in paragraphs 13 and 14.

8. With regard to paragraph 15, repeat and recalculate each and every answer contained in paragraphs 1 through 5 of this answer with the same force and effect as though set forth at length herein.

9. Deny the allegations in paragraph 16, except admit that Bobby Cox signed himself out of the Veterans Administration Hospital, 24th Street and 1st Avenue, New York, New York, and the Veterans Administration Hospital, Fayetteville, North Carolina.

10. Deny the allegations as to damages in paragraph 17 and deny knowledge or information sufficient to form a belief as to the truth of the other allegations in paragraph 17.

11. With regard to paragraph 18, repeat and recalculate each and every answer contained in paragraphs 1 through 5 and 7 of this answer with the same force and effect as though set forth at length herein.

FIRST DEFENSE

12. The complaint fails to state a claim on which relief can be granted.

SECOND DEFENSE

12A

13. The Court is without subject matter jurisdiction over defendants, Veterans Administration and Administrator of the Veterans Administration.

THIRD DEFENSE

14. Bobby-Cox failed to care for his health needs and failed to follow the recommendations and medical advice of psychiatrists and other medical personnel when he signed himself out of Veterans Administration Hospital, 24th Street and 1st Avenue, New York, New York and also when he signed himself out of Veterans Administration Hospital, Fayetteville, North Carolina.

FOURTH DEFENSE

15. Proper venue does not lie in the Southern District of New York over that part of the complaint alleging that negligent acts occurred at The Veterans Administration Hospital, Fayetteville, North Carolina.

WHEREFORE, the defendants demand judgment dismissing the complaint, together with the costs and disbursements of this action.

Dated: New York, New York

April 14, 1976

ROBERT B. FISKE, JR.
United States Attorney for the
Southern District of New York
Attorney for the Defendants
United States of America

By: /s/

STUART I. PARKER
Assistant United States Attorney
Office and Post Office Address:
One St. Andrew's Plaza
New York, New York 10007
Telephone: (212) 791-1924

TO: GERALD MURRAY, ESQ.
Attorney for Plaintiff
Office and Post Office Address
90-61 Sutphin Boulevard

BEST COPY AVAILABLE

MARY COX as Administrator of the
goods, chattels and credits of
Bobby Cox, deceased,

13A

Plaintiff,

- against -

UNITED STATES OF AMERICA,

Defendant.

PRE-TRIAL ORDER

75 Civ. 3226 (E.W.)

*The parties to this action, by their attorneys appeared before this court
in compliance with Rule 16 E.R.C.P. and the following action was taken:*

1. NATURE OF ACTION AND JURISDICTION

This is an action for wrongful death arising out of the suicide of plaintiff's decedent, Bobby Cox.

Plaintiff has invoked jurisdiction under the Federal Tort Claims Act, 28 U.S.C. §1346(b) and 2671 et seq. There is no dispute as to jurisdiction.

2. AMENDMENTS OF PLEADINGS

The pleadings are amended as follows:

1) The Administrator of the Veterans Administration and the Veterans Administration are deleted as defendants.

2) Paragraph "Sixteenth" amended complaint is modified to read as follows:

SIXTEENTH: That on or in July of 1972, plaintiff was allowed to sign himself out of said Veterans Administration Hospital at 24th Street and 1st Avenue, New York, New York and thereafter admitted to Veterans Administration Hospital in Fayetteville, North Carolina on or about August 20th or 21st, 1972 and thereafter released and refused admittance at the Veterans Hospital at 24th Street

MICROFILM

NOV 0 1973

and 1st Avenue, New York, New York on or about September 20 1972, all of which was in the sole control of the defendant under such circumstances as this is the ordinary course of events and in the exercise of ordinary and proper care the plaintiff decedent would not have sustained the hereinafter alleged injuries and death as a result of said accident. The complaint is also amended to include an allegation in all of the causes of action that plaintiff's appeared Brooklyn Veterans Administration Hospital between August 14th, 1972 and October 11th, 1972 and was told to go back to New York Veterans Administration for treatment.

3. STIPULATED FACTS:

The following facts are stipulated:

(a) Bobby Cox was admitted to the Veterans Administration Hospital in Manhattan as a psychiatric patient on September 30th, 1968 and was discharged on February 20th, 1969.

(b) Bobby Cox was admitted to the Veterans Administration Hospital in Manhattan as a psychiatric patient on March 2nd, 1970 and was discharged on March 30th, 1970.

(c) Bobby Cox was admitted to the Veterans Administration Hospital in Manhattan as a psychiatric patient on July 19th, 1972 and was discharged on August 14th, 1972. His discharge was irregular as he signed out of the hospital against medical advice.

(d) Bobby Cox was admitted to the Veterans Administration Hospital in Fayetteville, North Carolina on August 20th, 1972 and was discharged on August 21st, 1972. His discharge was irregular as he signed out of the hospital against medical advice.

(e) On or about October 12th, 1972 Bobby Cox committed suicide.

FACTUAL CONTENTIONS

4. A. Plaintiff's Factual Contentions

An itemized statement of all special damages claimed on behalf of the plaintiff; loss of income \$190,996.

A statement of the basis of computation of all general damages claimed on behalf of the plaintiff;

Per American Experience table of mortality he had 36.73 years x \$100 per week contribution = \$190,996.

That the plaintiff's decedent received an irregular discharge on several of those occasions, the last one being in New York on August 14th, 1972 and in Fayetteville, North Carolina on August 21st, 1972. That plaintiff's decedent had a history of several prior suicide attempts, and episodes of violence, was severely depressed, tended to be out of touch with reality, auditory hallucinations, persecution, and was diagnosed as a chronic schizophrenic, and schizophrenic undifferentiated, acute psychotic disorder with service connection. Defendant had a rule that when a patient signs out on an irregular discharge they cannot be re-admitted within 90 days.

That on or about September 20th, 1972 the plaintiff's decedent sought re-admission at Veterans Administration Hospital, New York City, and was denied re-admission because of said rule. In addition, Bobby Cox sought admission to Brooklyn Veterans Administration Hospital subsequent to discharge from New York Veterans Hospital on August 14th, 1972 prior to October 11th, 1972.

That at time of said irregular discharge the question of the mental fitness of plaintiff's decedent

CONFIDENTIAL

16A

to properly effectuate said discharge.

That plaintiff's decedent did work fairly regularly until his death and in addition he received a benefit payment monthly.

That Veterans Administration Hospital in New York and/or North Carolina acted unreasonably in failing to institute legal proceedings to commit Bobby Cox to hospitalization against his will.

That there is a causal connection between treatment and/or lack of treatment by Veterans Administration Hospital aforementioned.

That Mary Cox, his sister and Mary R. Cox, his mother were partially dependent upon Bobby Cox for support during his lifetime

4 B. Defendant's Factual Contentions

1. At no time after Bobby Cox's irregular discharge from the Veterans Administration Hospital in Manhattan on August 14, 1972 did he seek re-admission to that hospital.

2. There was no casual relationship between the suicide of Bobby Cox and his treatment or lack of treatment by the Veterans Administration Hospitals in New York and Fayetteville, North Carolina.

3. Neither the Veterans Administration Hospital in Manhattan nor Fayetteville, North Carolina acted unreasonably in failing to institute legal proceedings to commit Bobby Cox to hospitalization against his will.

4. At the time of his death, Bobby Cox was unemployed and had not worked regularly since his hospitalization in 1968.

5. Bobby Cox's sole distributee, his mother, was not dependent upon him for support during his lifetime.

6. The defendant, United States of America, is not responsible for any damages plaintiff or Bobby Cox's sole distributee, his mother, may have sustained as a result of his death.

A. Plaintiff, Mary Cox, while reserving the right to add or subtract from this list, proposes to call some or all of the following witnesses:

1. Mary Cox, the plaintiff in this action.
2. Mary R. Cox, the mother of Bobby Cox.
3. Ernest Kovacs, M.D. (Medical Expert).

B. Defendant, United States of America, while reserving the right to add or subtract from this list, proposes to call some or all of the following witnesses:

1. Peter A. Pascarelli, chief of the medical administration service at the Veterans Administration Hospital in Manhattan.

2. Martin Kesselman, M.D. (Medical Expert).

Defendant also reserves the right to call additional witnesses at trial to rebut the evidence introduced by plaintiff.

6. EXHIBITS

A. Plaintiff's List of Exhibits:

1. Army records of Bobby Cox.
2. Entire hospital record of Veterans Administration Hospital in Manhattan for Bobby Cox.
3. Entire hospital record of Veterans Administration Hospital in Fayetteville, North Carolina for Bobby Cox.
4. Veterans Administration Hospital record in Brooklyn.
5. Decedent's postal employment records.

The authenticity of the aforementioned records is stipulated to by plaintiff and defendant.

18A1

1. The hospital records listed in 6A.
2. The postal employment records of Bobby Cox.
7. ISSUES TO BE TRIED

Following are the contested issues to be submitted to the Court for determination.

(a) Whether Bobby Cox was refused admission to the Veterans Administration Hospital in Manhattan on or about September 20, 1972?

(b) If the answer to 7a is yes, was the refusal of admission a negligent act and, if so, was such negligence a proximate cause of Bobby Cox's suicide?

(c) Whether it was an act of negligence for the Veterans Administration Hospital in Manhattan to permit Bobby Cox to discharge himself from that hospital against medical advice on August 16, 1972?

(d) If the answer to 7c is yes, was such negligence a proximate cause of Bobby Cox's suicide?

(e) Whether it was an act of negligence for the Veterans Administration Hospital in Fayetteville, North Carolina to permit Bobby Cox to discharge himself from that hospital against medical advice on August 21, 1972?

(f) If the answer to 7e is yes, was such negligence a proximate cause of Bobby Cox's suicide?

(g) What is the pecuniary value of the damages to which plaintiff is entitled if liability on the part of defendant is proved?

18A2

New York, New York

November 4, 1976

SO ORDERED: *November 9, 1976*

[Signature]
U. S. D. J.

Consented To:

[Signature]
Attorney for Plaintiff

ROBERT S. FISKE, JR.
United States Attorney for the
Southern District of New York
Attorney for Defendant

By:

[Signature]
TEDANT T. PARKER

Assistant United States Attorney

Closed

30)

19 A

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



----- x

MARY COX, as Administratrix of the :
Goods, Chattels and Credits of :
BOBBY COX, deceased, :

Plaintiff, :

75 Civil 3226

Elw

-against-

:

ORAL OPINION,
FINDINGS OF FACT
AND
CONCLUSIONS OF LAW

Administrator of the Veterans :
Administration, Veterans Administration :
and United States of America, :

Defendants. :

----- x

GERALD MURRAY, ESQ.
90-61 Sutphin Boulevard
Jamaica, New York

Attorney for Plaintiff

ROBERT B. FISKE, JR., ESQ.
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EDWARD WEINFELD, D. J. (Orally):

This is an action for wrongful death under the Federal Torts Claims Act, 28 U.S.C., sections 1346(b), 2671, et seq., brought by the sister of, and the administratrix of the estate of, Bobby Cox, who committed suicide on October 12, 1972, in North Carolina.

Plaintiff claims that the Veterans Administration Hospitals in New York City and Fayetteville, North Carolina, were negligent in allowing Cox to sign himself out against medical advice and that the Veterans Administration Hospital in New York City was negligent in later refusing to admit Cox and that such negligence proximately caused his suicide.

Cox served in the Army from 1965 to 1967. After his discharge, he returned to live with his mother in North Carolina. According to his mother, he became restless and depressed and could not sleep. On September 20, 1968, while he was living in New Jersey, he was brought to the Veterans Administration Hospital in New York City by his sister, the plaintiff. He was diagnosed as undergoing a schizophrenic reaction, acute, undifferentiated type. He was depressed, heard voices, and was afraid people were out to get him.

repeatedly to leave without permission and on two occasions tried to escape through windows, although his ward was on the 16th floor.

Following these incidents, he underwent a course of shock therapy, which greatly improved his condition. He was released on February 20, 1969, at which time the attending doctor noted that he was "medically competent and able to resume some employment."

Subsequently, on March 2, 1970, Cox was again brought to the New York Veterans Administration Hospital in a "nervous and depressed" condition. However, there was no indication that he was violent at that time and one doctor specifically noted that Cox was not suicidal. As on his first stay, he made several efforts to leave the hospital. However, he improved rapidly and was released on March 30th. After this hospitalization, Cox obtained employment with the Post Office and lived with his sister, the plaintiff, in Queens.

In July 1972 Cox became depressed and began hearing voices again and quit his job. His sister brought him back to the Veterans Administration Hospital on July 14. He was

admitted on July 19. The sister testified that she never heard him threaten to harm himself or her and that the only violent act he committed was ripping a telephone out of a wall. Upon his admission, an examining doctor noted that he had neither suicidal nor homicidal tendencies. As on prior admissions, he occasionally tried to leave the hospital. Although he continued to hear voices and remained tense and depressed, he did not appear to be as seriously ill as on his previous admissions. On several occasions, he was allowed to leave the hospital with his sister on passes. On August 14, 1972, after returning late from one of those visits, he insisted upon leaving the hospital and finally was allowed to leave against medical advice after signing a statement that he understood he could not be readmitted for ninety days.

Several days later he went to North Carolina to be with his mother. His depression and hallucinations continued and on August 20 his mother brought him to the Veterans Administration Hospital in Fayetteville, North Carolina. Although the mother testified she told the admitting doctor Cox was acting violent, the hospital records are to the contrary. The record indicates "Mother said he doesn't want to work, thinks he has no friends. She didn't think he has hallucina-

tions, however, and is not violent. but wants to be going to someplace all the time." The next day Cox insisted upon leaving the hospital and signed out against medical advice.

Plaintiff claims that on September 19 Cox returned to New York City for medical attention and that she took him to the Veterans Administration Hospital in New York for treatment on the 20th. She testified that they were seen by a clerk who, after retrieving Cox's records, informed them -- that is, the sister and Cox -- that Cox could not be readmitted because of a hospital rule forbidding the readmission of a patient who had signed out against medical advice within the previous ninety days. Plaintiff testified Cox was never seen by a doctor on this visit. However, Cox's hospital records contain no notation of such a visit, although a record would normally have been made, and in fact his file contained records of other visits on which he was refused admission. Moreover, the Chief of Medical Administrative Services at the hospital testified that in September 1972 the ninety-day exclusion rule was no longer in effect, that every patient who came to the hospital was examined by a nurse and a doctor, and that the decision whether to admit a patient was a medical one always made by a physician.

In order to credit the plaintiff's testimony, the Court would have to believe that on this occasion the staff of the Veterans Administration Hospital failed to follow every step of the prescribed procedure. Based upon the demeanor of witnesses and all relevant evidence, the Court finds that plaintiff has failed to sustain her burden of proof that the decedent Cox, accompanied by her, sought admission to the Veterans Administration Hospital in New York City on September 20, 1972. In fact, regardless of who has the burden of proof on this issue, the Court finds upon all the evidence that the sister and the decedent did not seek admission to the hospital on that day.

As to the two occasions on which Cox was allowed to sign out of hospitals against medical advice, the defendant is not liable unless the hospital staff knew or should have known at that time that Cox was reasonably likely to commit suicide in the near future. *Wright v. State*, 31 App. Div. 2d 421, 300 N.Y.S.2d 153 (1969); *Root v. State*, 40 N.Y.S.2d 576 (Ct. Cl. 1943); cf. *Dinnerstein v. United States*, 486 F.2d 34 (2d Cir. 1973). However, in this case there was no indication either on August 14 or on August 21 that Bobby Cox was reasonably likely to commit suicide. While it is true he had on

occasion been violent during his hospitalization in 1968, there had been no violent episode since then and in fact it appeared that his condition was not as serious then as it had previously been. He did not give any sign to the hospital staff or to his sister of any intent to harm himself. His symptoms were not uncommon for schizophrenics and did not indicate imminent suicide. Although his doctor opposed his discharge at that time and felt further treatment would be preferable, this by itself doesn't mean that he was such an imminent threat to his own safety as to require involuntary commitment. See 38 C.F.R. section 13.51(b) (1972); former New York Mental Hygiene Law, sections 72, 78 (McKinney 1971).

Moreover, it is doubtful, to say the least, that plaintiff's discharges in August 1972 were causally related to or were the proximate cause of his suicide over seven weeks later, in the light of the expert testimony that schizophrenics often undergo wide mood swings.

In sum, the plaintiff has failed to prove that the actions of the defendant in allowing Bobby Cox to sign out against medical advice on August 14 and August 21, 1972, were negligent or caused his death. Accordingly, judgment may be rendered in favor of the defendant dismissing the

complaint upon the merits.

The foregoing shall constitute the Court's Findings
of Fact and Conclusions of Law.

Dated: New York, N. Y.
December 20, 1976

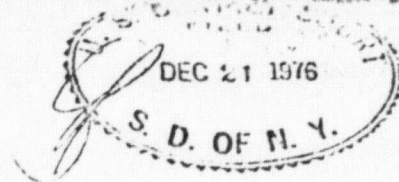
EDWARD WEINFELD
United States District Judge

I (We) hereby certify that the foregoing
is a true and accurate transcript, to the best
of my (our) skill and ability, from my (our)
stenographic notes of this proceeding.

Robert J. Maude

Official Court Reporter
U. S. District Court

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X
MARY COX, as Administratrix of the
Goods, Chattels and Credits of Bobby Cox,
deceased

75 Civil 3226 (EW)

Plaintiff

-against-

JUDGMENT

ADMINISTRATOR OF THE VETERANS
ADMINISTRATION
VETERANS ADMINISTRATION
UNITED STATES OF AMERICA

Defendants
----- X

The issues in the above entitled action having been brought on regularly
for trial, before the Honorable Edward Weinfeld, United States District
Judge, on December 9, 10 and 20, 1976, and at the conclusion of the evidence,
the Court having dictated its decision, constituting its findings of fact and
conclusions of law, into the stenographic record, and the Court having found
in favor of the defendants, it is,

ORDERED, ADJUDGED and DECREED: That defendants ADMINISTRATOR
OF THE VETERANS ADMINISTRATION, VETERANS ADMINISTRATION And
UNITED STATES OF AMERICA have judgment against plaintiff MARY COX,
as administratrix of the goods, chattels and credits of Bobby Cox, deceased,
dismissing the complaint.

Dated: New York, N. Y.
December 21, 1976

Raymond F. Berglund
Clerk

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x

MARY COX, etc., :

Plaintiff, :

-against- : 75 Civil 3226

ADMINISTRATOR OF THE VETERANS :
ADMINISTRATION, U.S.A.; :
VETERANS ADMINISTRATION AND :
VETERANS HOSPITAL, :

Defendants.

BEFORE:

HON. EDWARD WEINFELD,
District Judge

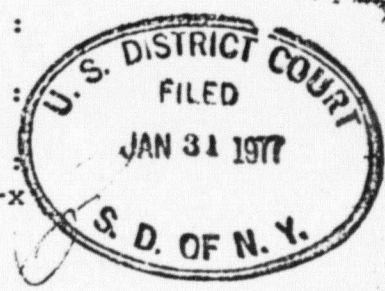
New York, New York
December 9, 1976 - 10:00 a.m.

APPEARANCES:

GERALD MURRAY, ESQ.,
Attorney for Plaintiff

ROBERT B. FISKE, JR., ESQ.,
United States Attorney for
the Southern District of N.Y.
Attorney for Defendants,

BY: STUART PARKER, ESQ.,
Assistant United States Attorney



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2 concern, but I just prefer not to have one witness in the
3 room while another is testifving.

4 THE COURT: She may stay.

5 M A R Y R A C H E L C O X, called as
6 a witness by the plaintiffs, being first duly sworn,
7 testified as follows:

8 DIRECT EXAMINATION

9 BY MR. MURRAY:

10 Q Mrs. Cox, are you the mother of the decedent
11 involved in this case, Bobby Cox?

12 A Yes, I am.

13 Q When was he born?

14 A He was born March 13, 1942.

15 Q He was your son, is that correct?

16 A Yes, he was

17 Q Where did you live when he was born?

18 A North Carolina.

19 Q In what town?

20 A Sanford, North Carolina.

21 Q Did you raise Bobby?

22 A Did I raise Bobby?

23 Q Yes..

24 A Yes, I did.

25 Q He lived with you?

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Cox-direct

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2 A Yes.

3 Q And he went to school down there when he reached
4 five, six years of age?

5 A Yes.

6 Q I guess in due course he went into the Armed
7 Service of the United States, is that correct?

8 A Yes.

9 Q Did Bobby listen to you?

10 A Yes, he did.

11 Q Did there come a time when your son came back from
12 the Armed Services? In other words, I think I asked you
13 if he went in the Armed Service and you said yes, is that
14 correct?

15 A Yes.

16 Q Did he go in the Army?

17 A Yes.

18 Q Was he wounded in the Army?

19 A Yes.

20 Q What part of his body was wounded, if you know?

21 A His leg and his thigh.

22 Q Did he receive because of that, if you know, a
23 disability pension?

24 A Yes, he did.

25 Q Do you recall approximately how much that was?

Cox-direct

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A Well, I don't recall, but it was over \$100.

THE COURT: \$100 a month?

THE WITNESS: Yes.

Q When he came back from the Armed Services did he develop any problems other than physical injuries?

A Yes.

Q As a result of that was he admitted to your knowledge to a Veterans Hospital in New York on or about September 30, 1968?

A Yes.

Q Did he remain there until about February the following year?

A Yes.

Q Did he also have various short intermittent treatments subsequent to that?

A Yes, he did.

Q After he came back from the Service, during part of that time did he live with you?

A He lived up here most of the time, with my daughter.

Q Did he visit with you?

A He visited with me.

THE COURT: You were still in North Carolina, is that correct?

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Cox-direct

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THE WITNESS: I am still in North Carolina.

Q Did he visit with you regularly?

A Not regularly.

Q How often would you say?

A Mostly on vacation time and around Christmas.

Q Did he come down weekends occasionally?

A No.

Q But you did see him from time to time?

A Yes, I would see him from time to time.

Q Did you come to New York to visit with him and your daughter?

A Yes, I would.

Q How often would you make trips to New York?

A Just as often as I could.

Q Could you give us an approximation?

A I would come maybe three or four times a year.

Q From the time that he came back from the Service up until the time he died, October 11, 1972, is that correct?

A October 12th.

Q I'm sorry.

From the time that he came back from the Service, and try to give me a little more specific information as to dates, but from that long period of time, from

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Cox-direct

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2 when he came back from the Service, what was that 1967,
3 1966, something like that?

4 A '67, something like that.

5 Q You mention he had difficulties which caused him
6 to go into the hospital, is that right?

7 A Right.

8 Q Will you tell the Court what you observed --
9 and I realize you are not a psychiatrist, but what you
10 observed those difficulties were?

11 A He was really depressed, restless. He couldn't
12 sleep at night, he just walked. Most times he didn't
13 want to eat food and he was really disturbed, threatening
14 suicide. He wanted to know where my gun was, where did
15 I keep it and at times he was just out of control and I
16 couldn't do anything with him.

17 Q Are these the reasons that precipitated your
18 bringing him to the hospital for treatment?

19 MR. PARKER: I am going to object.

20 THE COURT: I didn't understand that she brought
21 him to the hospital.

22 MR. MURRAY: I'm sorry.

23 THE COURT: How did it come about that he went
24 into the Veterans Hospital the first time after he returned?

25 THE WITNESS: Well, he take sick. I wasn't here

at the time.

THE COURT: He took sick in New York?

THE WITNESS: Yes.

THE COURT: And you were in North Carolina?

THE WITNESS: Yes.

THE COURT: Then you heard that he had gone into the hospital, is that it?

THE WITNESS: My daughter called me.

THE COURT: And told you?

THE WITNESS: Yes.

MR. MURRAY: I'm sorry, I got mixed up.

The daughter is present. I'm sorry, I made an error in recollection, your Honor.

THE COURT: As I understood it after his return he visited you rather infrequently in North Carolina, not regularly? You said he would come down on vacations, around Christmastime, is that it?

THE WITNESS: After he went into the hospital, well, he was sick and then he would -- he was working and then when he went in the hospital and wasn't working, then he would come home when he had time off.

THE COURT: He would come home when?

THE WITNESS: Whenever he was better. You know, if he would get better -- he would get sick. He

could get these bad spells.

THE COURT: All right.

THE WITNESS: After he was in the hospital the first time, well, he never did get -- well, he never did get exactly right.

THE COURT: You mean from the time he returned following his Army service he was never right?

THE WITNESS: To my knowledge he wasn't right.

THE COURT: To your knowledge. All right. He was often speaking of Vietnam.

Q He served in Vietnam?

A He served in Vietnam.

Q When he wasn't feeling well, did I interpret you correctly that he did come to visit you more often during those periods of time; is that what you are trying to say, or did I misunderstand you?

A When he wasn't feeling well he would want to come home.

Q I beg your pardon?

A He would come hom, he would want to come home.

Q Did he in fact come home and see you during those periods of time?

A Yes.

Q And did he stay with you?

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2 A Yes.

3 Q This was after his first hospitalization?

4 A Yes.

5 Q Which was, I believe, in September 19 --

6 THE COURT: From September 30, 1968 to February
7 20, 1969.8 Q Was it during those times when he was home --
9 I hate to belabor the point and I know it is painful for you,
10 but I will try to be brief about it.

11 When for the first time did he talk about suicide?

12 A He talked about it, it might have been the second
13 time he was out of the hospital.14 Q Do you have any recollection as to the date or is
15 hard for you to remember?

16 A I can't recall the date.

17 THE COURT: I didn't hear the witness' answer.
18 The second time after he was --19 MR. MURRAY: Out of the hospital I think she
20 said.21 THE COURT: According to your stipulation, he
22 was admitted on the second occasion on March 2, 1970
23 and discharged March 30, 1972.

24 MR. MURRAY: 1970 it should be, I believe.

25 THE COURT: I said March 2, 1970 was the admission

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admission to the hospital that you first heard him
talk about suicide?

When was the first time you heard him talk about
suicide?

THE WITNESS: It was long about that time. I guess.
I can't recall. I'll tell you, you see, my son was
the type of person that would be thinking about these
things, but he really didn't want me to know about it. He
didn't want to worry me. Finally when he got so sick,
then he was talking about -- he was asking me where
was my gun, you know, and talking about committing suicide.

Q Did these discussions -- I realize it is over a
number of years -- did they take place a few times or many
times? How would you characterize it?

A A few times.

Q Did there come a time on August 20, 1972 that
you brought your son to the Veterans Administration
Hospital in Fayetteville, North Carolina for treatment?

A Yes.

Q Did you talk to anybody who admitted him at
that time?

A I talked to the Veterans Administration lady.

Q Did you talk to a doctor?

A I don't recall if he was a doctor.

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Q Did you talk to somebody who worked for the hospital?

A Yes, I did.

Q Did they ask you questions about him?

A Yes.

Q Did you tell them about these incidents?

A Yes, I did.

THE COURT: What did you tell them?

THE WITNESS: I told them that he was -- that I couldn't do anything with him. He was acting violent.

THE COURT: He was what?

THE WITNESS: Acting violent and I couldn't keep him at home. I mean, I just couldn't keep him nearby myself and I would like for them to admit him.

THE COURT: Was he admitted?

THE WITNESS: They admitted him, but then after I went back the next day they told me that they didn't have the -- they told me now he was and everything and they said they didn't have the facilities down there to treat him, that I would have to bring him back to the hospital up here.

Q In New York are you talking about?

A Yes, in New York.

Q You mean to go back to the care of his doctor?

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Cox-direct

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1 that was taking care of him in New York?

2 A Yes.

3 Q Do you remember that doctor's name?

4 A Dr. Singer.

5 THE COURT: Did you bring him back to New York?

6 THE WITNESS: No, I didn't bring him back.

7 THE COURT: How did he return to New York from
8 North Carolina in August?

9 See if you can get this in logical order, unless
10 you prefer to put the questions yourself.

11 MR. MURRAY: No, that's all right.

12 THE COURT: You went with him to the Veterans
13 Administration Hospital in Fayetteville, North Carolina?

14 THE WITNESS: Yes.

15 THE COURT: According to this stipulation this
16 was on August 20, 1972 and then he was discharged the next
17 day, August 21, 1972.

18 When he returned how did you go with him to New
19 York?

20 THE WITNESS: No, I didn't.

21 THE COURT: Did he stay with you?

22 THE WITNESS: At my house in North Carolina?

23 THE COURT: Yes.

24 THE WITNESS: Yes, he stayed there, but --
25

THE COURT: How long did he stay there?

THE WITNESS: I can't recall how many days he

THE COURT: Did he leave your home and return to New York to your knowledge?

THE WITNESS: Yes.

THE COURT: When did he go to New York?

THE WITNESS: I can't recall the exact date.

Q Did you call your daughter in New York?

A I called my daughter.

Q Did she come down to bring him back to New York?

A I just can't recall if she came to him.

Q In any event, he did go back to New York?

A Yes, he came back to New York.

Q Was that for the purpose of trying to get treatment at the New York Veterans Administration Hospital?

A Yes.

MR. PARKER: Objection, leading.

THE COURT: You are leading, counsel.

I will sustain the objection.

Q Do you remember the reason he went back to New York for?

A He came back to New York because they didn't have the facilities in Fayetteville, North Carolina to

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Cox-direct

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1 treat him with, so he came back up here to be readmitted
2 to the hospital up here in New York.

3 Q Do you recall when you had him admitted in
4 Fayetteville, North Carolina, do you recall if you
5 mentioned the incidents of the suicide threats?
6

7 A Yes, he did.

8 Q I beg your pardon?

9 A He mentioned that before he carried him to the
10 hospital.

11 Q I understand. What I was asking you, Mrs. Cox,
12 did you mention that to whoever it was, a doctor?

13 A Oh, at the hospital?

14 Q Yes. If you remember.

15 A Yes. I mentioned it because I told them that he
16 was just violent and I couldn't do anything with him at
17 home. I told them I wished they would admit him in and
18 try to help him in some way.

19 Q Did you mention to the people at the hospital
20 that he asked you about the whereabouts of your gun?

21 MR. PARKER: I must object to this leading.

22 THE COURT: I must sustain the objection here.

23 MR. MURRAY: I'm sorry.

24 Q Do you recall anything else that you mentioned
25 to them when you had him admitted to the hospital in

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2 Fayetteville?

3 THE COURT: Why don't you state everything you
4 recall. You went with him to the admissions office.

5 THE WITNESS: Yes, I did.

6 THE COURT: You say you saw a lady there if
7 I recall, or was it somebody else?

8 THE WITNESS: Whenever I admitted him, I just
9 can't recall, if it was a man or a woman I can't recall,
10 but they said they didn't have the facilities there
11 to treat him with, you know, but they would admit him over-
12 night and keep him there. They did admit him overnight
13 so the next day, whenever I went back to see him, they
14 told me I would have to go down to the Veterans Administration
15 office and talk with this lady.

16 THE COURT: Talk with whom?

17 THE WITNESS: A lady.

18 THE COURT: Yes.

19 THE WITNESS: I went down there and talked
20 with her and told her everything.

21 THE COURT: What did you tell her?

22 THE WITNESS: I told her how he was and everything.
23 She asked me what hospital had he been in and how was they
24 treating him so I told them that he was in the hospital
25 here in New York.

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1 THE COURT: What did she say?

2 THE WITNESS: She said I would have to bring him
3 back to New York because they didn't have the facilities
4 there to treat him there in Fayetteville.
5

6 THE COURT: After that did he go home with you?

7 THE WITNESS: Yes. I carried him on home.

8 THE COURT: How long did he stay with you in North
9 Carolina?

10 THE WITNESS: He stayed for a few days but how
11 many days I can't say.

12 THE COURT: After he stayed with you for a few
13 days did he return to New York?

14 THE WITNESS: Yes, he did.

15 THE COURT: Did you go with him?

16 THE WITNESS: No, I didn't.

17 THE COURT: Did anybody go with him from your
18 family?

19 THE WITNESS: I just can't recall if anybody
20 came back with him.

21 THE COURT: You say you can't recall? I am not
22 sure I heard you.

23 THE WITNESS: At the moment I can't.

24 THE COURT: Do you know whether he went by himself
25 to New York?

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2 MR. MURRAY: I am sorry to interrupt, but she
3 was not present, I believe, your Honor. The next witness
4 has knowledge of the circumstances.

5 THE COURT: I am talking while he was still in
6 North Carolina. That is what I am asking.

7 MR. MURRAY: I misunderstood you.

8 THE COURT: Do you know whether or not he left
9 North Carolina by himself to return to New York?

10 MR. MURRAY: Excuse me. I beg your pardon,
11 your Honor. I misunderstood you.

12 THE WITNESS: I was so upset and everything,
13 but I think he left by himself because his illness --

14 THE COURT: All right.

15 MR. MURRAY: I'm sorry, your Honor, I misunderstood
16 your line of questioning.

17 Q Did there come a time after September 20, 1972
18 that your son returned again home?

19 A Yes.

20 THE COURT: When you say home, you are referring
21 to your home in North Carolina?

22 MR. MURRAY: That's right.

23 THE WITNESS: Yes.

24 THE COURT: When did he return there?

25 THE WITNESS: I think it was in August.

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1 Q You say he went to New York to go to the Veterans
2 Hospital in New York, is that correct? Is that what you
3 said?
4

5 A After he came home in August?

6 Q You admitted him to the Veterans Hospital in
7 August --

8 THE COURT: We have been over this.

9 MR. MURRAY: I just want to get the date.

10 THE COURT: Mrs. Cox, you have already testified
11 that he was in North Carolina in August, you went with
12 him to the Veterans Administration Hospital, he was there
13 overnight and according to your testimony they told you
14 that he had to be treated in New York or should go back
15 to New York to the hospital, is that correct?

16 THE WITNESS: Yes.

17 THE COURT: Then he stayed with you for a few
18 days. Then he went to New York, you said, you believe by
19 himself and now you say he returned to North Carolina
20 after he returned to New York and counsel is trying to find
21 out from you when did he return to North Carolina, to your
22 home?

23 THE WITNESS: It was in August because, you see,
24 when I came back up here he was in the hospital. He was
25 in and out the hospital. Okay. That is why I was in

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1 New York. He left -- I was wanting him to stay in the
2 hospital.
3

4 Q Is this a previous admission that you are
5 talking about now? I don't understand.

6 A This was in August.

7 THE COURT: August what year?

8 THE WITNESS: I believe '72.

9 A So he was -- and the reason I know he was sick
10 and wasn't of hisself was, see, he left -- he was wanting to
11 go home and he left me in New York and went home and I
12 didn't know where he was. I mean, we didn't know where he
13 had gone and whenever he got home he called me back and
14 said he was at home.

15 Q Did you then go back to North Carolina?

16 A Then I had to catch a flight. In other words, I
17 had to call my relatives in North Carolina to keep him
18 there because I knew he wasn't right until I got there
19 and I had to catch a flight home.

20 Q So you went back?

21 A And I went back to North Carolina.

22 THE COURT: In other words, you are saying after
23 he was in the hospital in North Carolina in August and
24 he had gone to New York, you say you went to New York, too?

25 THE WITNESS: This was before he was in the

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1 hospital in North Carolina whenever, and then whenever
2 I got home from New York -- when I took this flight home
3 from New York I found him in such a state of mind until
4 I couldn't control him.
5

6 THE COURT: Was that the time you took him --

7 THE WITNESS: That is the time I took him to the
8 hospital in Fayetteville.

9 THE COURT: In August.

10 THE WITNESS: Yes.,

11 THE COURT: We are over that now.

12 In other words, you were in New York and he
13 was in North Carolina before the admission in the Fayetteville
14 hospital on August 20th?

15 THE WITNESS: He just up and went. Nobody knows
16 what happened.

17 THE COURT: Whatever it was, you were in New York
18 and you learned he was in North Carolina and you took an air
19 flight back to North Carolina and then you took him to the
20 hospital, is that right?

21 THE WITNESS: Yes, I took him to the hospital.

22 THE COURT: After he was in the hospital in North
23 Carolina in August and he was there overnight -- is that
24 right?

25 THE WITNESS: Yes.

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Cox-direct

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THE COURT: You say they told you that he should go into the hospital in New York.

THE WITNESS: They told me that they didn't have the facilities to treat him with.

THE COURT: You have said that several times. I am trying to find out what you did thereafter.

He went home with you from the hospital and he returned to New York again.

THE WITNESS: Yes.

THE COURT: Is that right?

THE WITNESS: He came back to New York to be admitted in the hospital up here.

THE COURT: You say he was admitted here?

THE WITNESS: They didn't admit him.

THE COURT: You weren't here and you don't know.

THE WITNESS: I wasn't here.

THE COURT: That is what I am trying to find out. How long did you stay in North Carolina after he was in the hospital overnight from August 20th to August 21st in Fayetteville?

THE WITNESS: How long did who stay?

THE COURT: How long did you stay there?

THE WITNESS: I didn't come back to New York after then.

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Cox-direct.

2 THE COURT: You didn't come back to New York
3 after that so you don't know what happened here, except
4 as you have been told by other people.

5 THE WITNESS: Well, my daughter told me what
6 happened.

7 THE COURT: All right, we will hear that from
8 her.

9 Q Did there come a time after that when your son
10 returned back to North Carolina after that?

11 A After he was admitted -- I mean, after he came back?

12 Q After he was discharged in Fayetteville and told
13 to go to New York he then, you say, went alone to New York,
14 is that right? Is that correct?

15 A Yes.

16 Q Did there come a time when he came back to
17 North Carolina?

18 A Oh, yes, that was before he passed.

19 Q That was what I was talking about.

20 A Yes.

21 THE COURT: Can you fix the time when he came
22 back to North Carolina?

23 THE WITNESS: When he came back to North Carolina
24 it was, it was somewhere around the last of September or
25 the first of October, around the first of October, somewhere

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Cox-direct

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2 like that.

3 THE COURT: 1972?

4 THE WITNESS: 1972. It might have been the first
5 of October.

6 THE COURT: All right, Mr. Murray.

7 Q What did you observe about his behavior at that
8 time when he came back?

9 A He couldn't sleep at night. He would just walk
10 the floor. He was saying he was real depressed, and
11 I couldn't get any sleep and part of the time I couldn't
12 get him to eat food. He would just sit and stare. He just
13 didn't seem like -- he seemed like he was in another world.
14 I couldn't reach him.

15 Q Did he say anything to you that disturbed you
16 at the time?

17 A Yes.

18 Q What did he say, if you remember?

19 A He asked me about my gun, where did I keep it?
20 So I asked him why. He said he just wanted to
21 know.

22 I wouldn't tell him because he was -- well, he would
23 say every once in a while about committing suicide.

24 Q I know these questions are painful to you.
25 I will try to be as brief as possible.

Did there come a time when he committed suicide?

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Cox-direct

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A Yes.

3

Q Were you present?

4

A No, I wasn't.

5

THE COURT: Where did this take place?

6

THE WITNESS: In North Carolina.

7

THE COURT: According to the stipulation this
was on October 12, 1972.

8

MR. MURRAY: Right.

9

MR. PARKER: That is correct, your Honor.

10

11

Q Do you know anything about the gun he used, where
he got that from?

12

13

A He got it from my uncle.

14

THE COURT: From whom, your uncle?

15

THE WITNESS: My uncle.

16

Q Do you know under what circumstances he received
the gun, are you aware of it?

17

18

A Well, my uncle told me that he came over there --

19

MR. PARKER: I will object. This is hearsay.

20

THE COURT: Objection sustained.

21

Q In any event, you know of your own knowledge
that that is where he got the gun, is that correct?

22

23

A Yes.

24

Q When your son was in the Service did the Army
send you an allotment?

25

1 rgrf

Cox-direct

54 A

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2 A No.

3 Q Did your son send you money?

4 A Yes.

5 Q I realize we are talking about 19 -- do you
6 recall when he went into the Army, approximately?

7 A When he went into the Service?

8 Q Right.

9 A '65.

10 Q Do you recall how much per week he would send you?

11 A He would send me \$50.

12 Q I'm sorry?

13 A \$50.

14 THE COURT: Over what period of time?

15 MR. MURRAY: I am going to try to establish that.
16 That was 1965 she testified, your Honor.

17 THE COURT: Well, establish it.

18 Q What was his last job?

19 A Postal Service.

20 Q He lived in New York at that time, is that correct?

21 A Yes.

22 Q I think you testified to that.

23 Did he send you any money in the year 19 -- let's
24 say from January to June 1972?

25 A Yes, he did.

grf

Cox-direct

35

1
2 Q Can you tell the Court how much you recall him
3 sending you?

4 A He send me approximately \$50 a week.

5 THE COURT: \$50 a week? Is that what you are
6 testifying to, a week?

7 THE WITNESS: Yes.

8 Q Do you have a husband that is alive?

9 A No.

10 THE COURT: I didn't get an answer to the question.
11 Do I understand correctly it was \$50 a week that he sent
12 you?

13 THE WITNESS: Yes. When he was working at
14 the Post Office.

15 Q In the first half of 1972 did you have
16 regular employment?

17 A No.

18 Q Did you have difficulty in securing a job?

19 A The type of job I was doing, it was just like --
20 it was piecework and if you didn't get the work to do you
21 didn't make any money. A part timer didn't make any money.

22 Q I'm sorry, part of the time?

23 A Part of the time I didn't make any money because
24 we didn't have the work to do.

25 Q Was your son aware of the fact that you weren't

rgrf

Cox-direct

36

1 able to get regular work?

2 A Yes.

3 Q As far as you know did your son receive a pension
4 from the Army in addition to his post office salary until
5 the time he passed?

6 A Yes, he did.

7 Q Do you recall how much money you were able to
8 earn on an average basis?

9 A How much was I able to earn?

10 Q Yes. How much were you able to earn let's say
11 in the first half of 1972 on a weekly basis?

12 A Sometimes my pay would average around \$40, \$45 or
13 \$50. It was whatever amount.

14 Q When you say average, you mean when you were
15 working actually?

16 A Whenever I was working. Just like if we didn't
17 have the work we didn't make any money.

18 Q I realize we are going back a number of years,
19 but to your recollection how often would you say you were
20 able to work on an approximate basis?

21 MR. PARKER: I will object as to form. When,
22 Mr. Murray?

23 MR. MURRAY: We are talking about the first half
24 of 1972.

1 rgrf

Cox-direct

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2 A Well, whenever they had work available.

3 Q Would you say you were able to work one week a
4 month, one week every three months, every other week?
5 You know, the frequency, if you can estimate.6 A I would say about you could get two good full
7 weeks out of a month, something like that and there were
8 days that we wouldn't have much work to do.9 Q What about in the year 1971, did you have similar
10 employment or a different type of employment?

11 A I had the same type of employment in '71.

12 Q What about in 1970, did you have that problem,
13 too, or did you have different employment in that year?

14 A I had the same employment.

15 Q Going back to when your son was severed from
16 the Service, when he got out, did you have the same
17 situation or did you have a different employment back then?

18 A I had the same.

19 THE COURT: I think this may be a good point to
20 take our mid-morning recess.

21 (Recess.)

22 (In open court.)

23 Q Earlier this morning you testified that your
24 son sent you \$50 a week, is that correct?

25 A Yes.

rgrf

Cox-direct

38

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2 Q During the recess did you have time to reflect
3 on that?

4 A Yes.

5 Q Please tell the Court when did he start sending
6 you \$50 a week?

7 A After he got out of the service and was working
8 with the Postal Service.

9 THE COURT: He didn't send you the \$50 a week
10 while he was in the Army.

11 THE WITNESS: He sent me \$50 a month when he
12 was in Service. This was out of his money.

13 Q So are you now saying, to correct your answer,
14 that while he worked for the Post Office and he was earning
15 a higher salary he was sending you \$50 a week, is that
16 correct?

17 A Yes.

18 Q Is there anything else you would like to tell
19 this Court about your son?

20 MR. PARKER: I will object to that.

21 THE COURT: Sustained.

22 MR. MURRAY: I have no further questions,
23 your Honor.
24
25

1 rgrf

2 A I think I said that I think -- I think I have
3 said earlier that he called me and I was intending to go
4 down there anyway.

5 THE COURT: He called you first?

6 THE WITNESS: But he called me first and I told
7 him that I was coming.

8 THE COURT: What did he say to you when he called
9 you?

10 THE WITNESS: That I didn't say I recalled.

11 THE COURT: Oh, you don't recall what he said to
12 you?

13 THE WITNESS: I think, to my knowledge, that he
14 asked me was I coming. I told him that I would be down
15 there and see him that day.

16 Q Just so we are clear, Mrs. Cox, your recollection,
17 then, is that he did not tell you he wanted to go home?

18 MR. MURRAY: Your Honor, I believe the witness
19 has said that she did not recall.

20 THE COURT: The witness said she did not
21 recall and you are putting a question differently from
22 what she stated. Now, let's move along.

23 MR. PARKER: Yes, your Honor.

24 Q Mrs. Cox, I show you Plaintiff's Exhibit 2
25 in evidence. On the flyleaf, I ask you, is that your

2 signature?

3 A Yes.

4 Q Do you remember signing your name below this writing,
5 which I will read to you now: "I hereby agree to assume
6 responsibility for the care and supervision of the patient
7 during this absence and if required to return the patient
8 to the hospital in accordance with your instructions";
9 do you remember reading that?

10 MR. MURRAY: Can I see that for a minute, please?

11 A I signed it, but I had to take him out the
12 hospital because they didn't have the facilities there
13 to treat him.

14 Q Did the personnel at the hospital say to you you
15 have got to take him out, is that what they told you?

16 A That is what the lady -- the administration lady
17 told me. She said I would have to take him out and carry
18 him back to the hospital that he was in because they didn't
19 have the facilities there to treat him with.

20 Q Did you tell her that you were going to take
21 him back to the hospital in New York?

22 A I told them, yes, I would take him back and try
23 to get him back in the hospital up here.

24 Q They did tell you that they thought he needed
25 treatment, isn't that a fact?

rgrf

Cox-cross

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2 A Yes. They didn't have to tell me, I knew that.

3 Q Before you spoke to this woman do you remember
4 speaking to a doctor at the hospital?

5 A I don't know if he was a doctor or what he was.

6 Q Well, do you recall speaking to a man?

7 A Yes, I recall speaking to a man. As a matter
8 of fact, I was so upset.

9 Q Do you recall telling the man that your son was
10 not violent?

11 A Not violent?

12 Q Yes. Do you recall saying something along those
13 lines?

14 A Well, he wasn't.

15 Q No, the question is do you recall saying that?

16 A I don't recall saying that but as you say violence,
17 I probably stated violence in the earlier question, but
18 he was -- well, I know what violent means, but he was real
19 depressed.

20 THE COURT: He was really what?

21 THE WITNESS: He was depressed.

22 THE COURT: Are you saying he wasn't violent,
23 but depressed?

24 THE WITNESS: He was just depressed.

25 Q Do you recall telling the man at the hospital

1 rgrf

Cox-Cross

2 that your son was not hallucinating?

3 A What do you mean hallucinating? Hearing things?

4 Q Yes.

5 A I don't recall telling him that because I know
6 for a fact that -- well, my son told me that he would hear
7 voices.

8 Q Did he tell you that before you brought him to
9 the hospital on August 20, 1972?

10 A He would tell me that all along, about hearing
11 voices.

12 Q Did he tell you that on August 20, 1972?

13 A And seeing things that he couldn't make out.

14 Q Yes.

15 Do you recall the last time he told you that before
16 you took him to the hospital in August?

17 A I can't recall. You mean in Fayetteville?

18 Q Yes.

19 A I can't recall because before I had taken him to
20 the hospital in Fayetteville he was real depressed and,
21 as a matter of fact, I just -- I couldn't tell him nothing,
22 I couldn't get him to understand anything.

23 Q Now Mrs. Cox, how many days after your taking
24 your son home from the Fayetteville hospital did he
25 leave for New York?

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2 A I can't recall how many days he was there
3 before he came back to New York.

4 Q Was it more than a week?

5 A As I say, I couldn't recall.

6 Q You have no recollection at all?

7 MR. MURRAY: Your Honor, I believe that question
8 was just asked and answered a moment ago.

9 A I know it was a few days he was home.

10 Q Was it less than a week?

11 A It might have been about a week.

12 Q I'm sorry, Mrs. Cox, I can't hear you.

13 A I just can't recall whether it was four or five
14 days, something like that. I just can't recall, but
15 whenever he came back to New York.

16 Q Did he drive to New York?

17 A Yes, he drove. I think he drove back to New York.

18 Q In his own car?

19 A Well, he had some medicine there. I found some
20 medicine that he was taking, Thorazine. So I got him
21 to take some of that medicine and after taking some of
22 that medicine he seemed like he felt a little better and
23 he decided he would -- he said he would come on back, but
24 since he couldn't get the treatment down there in
25 Fayetteville, in North Carolina, he said he would come on.

1 rgrf
2 back and try to be admitted in the hospital up here.

3 Q He had some Thorazine after he left the
4 Fayetteville hospital?

5 A No. They didn't give him any medicine. This
6 was the medicine -- he was on medication up here.

7 Q He was on medication in New York?

8 A In New York.

9 Q And this was Thorazine that he had received from
10 New York?

11 A Yes. Some that he had there in a bottle, and I
12 found it there and got him to take some and he said he
13 believed --

14 Q He said what, Mrs. Cox?

15 A He could make it back up here and go to the
16 hospital. I think those are the words that he said. He
17 would come back up here and go to the hospital.

18 Q Did he take the bottle of Thorazine with him?

19 A No.

20 Q You kept it?

21 A He had taken -- there wasn't but just a few
22 tablets in the bottle.

23 Q Is it your testimony, then, that when he took
24 the Thorazine before he left for New York, that after
25 he took those tablets there were none left or were there some

1 rgrf

2 left?

3 A There wasn't any left.

4 Q Going back to your conversation, the questions
5 and answers with Mr. Lee from the Veterans Administration.

6 Isn't it a fact that you told him that Bobby was
7 sending you \$40 or \$50 from New York while he was working
8 for the Post Office?

9 A I said Bobby was sending me \$50 a month -- whenever
10 he was in the Service \$50 a month and whenever he was working
11 for the Post Office.

12 Q And what did you tell Mr. Lee?

13 MR. PARKER: I'm sorry, Mr. Reporter, could you
14 read back the last answer, please.

15 A I mean, that I do remember, but there is a lot of
16 it I don't recall because I was upset.

17 MR. PARKER: Could you read back the last answer,
18 please?

19 (Record read.)

20 A I said \$50 a week whenever he was working for the
21 Post Office.

22 Q That is what you said to Mr. Lee, that it was
23 \$50 a week?

24 A Whenever he was working at the Post Office.

25 Q That's what you said to the man from the

1 rgrf

McNeil-direct

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2 MR. MURRAY: Thank you.

3 Q Rather than go over a lot of things, you were
4 present when your mother testified, is that correct?

5 A Yes.

6 Q Did you ever become aware of your brother's
7 problems about depression and so forth?

8 A 1968.

9 Q Do you recall approximately when he was severed
10 from the Service?

11 A 1967.

12 Q How old was your brother, by the way, when he
13 died? Approximately.14 Let me put it another way: What was the age
15 difference between you and your brother?

16 A A couple of years.,

17 Q Was he older or younger?

18 A Younger.

19 Q Were you close?

20 A Very.

21 Q Did he ever have problems like that prior to his
22 going into the Service?

23 A No.

24 Q What was the incident that first brought it to
25 your attention in I think you said 1968 was the first time

1 rgrf

McNeil-direct

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2 that you became aware of this problem, but do you remember
3 what the incident was?

4 A Yes.

5 Q Would you please tell the Court what you recollect
6 of that?

7 A Well, he was living in Jersey at the time and he
8 called me at work and told me to come and get him. I
9 asked him what was his problem and he was crying.

10 THE COURT: Mrs. McNeil, would you try and raise
11 your voice a bit.

12 A I took off from work and I went to Jersey to get
13 him and I brought him back on the bus and I put him in
14 the VA Hospital on 23rd Street.

15 THE COURT: When was this?

16 THE WITNESS: 1968.

17 Q Would that be the first admission, approximately,
18 September 30, 1968?

19 A Correct.

20 Q Where he stayed there until February 20, 1969?

21 A Right.

22 THE COURT: Where was he living before the
23 admission into the hospital?

24 THE WITNESS: He was living in Newark, New Jersey.

25 Q After that hospitalization did he then come

1 rgrf

McNeil-direct

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2 to live with you?

3 A Yes, he did.

4 Q You shared an apartment in Queens?

5 A Yes.

6 Q When he was released from the hospital in 1969
7 was he working for the Post Office at that time or did
8 he have some other employment, if you recall?

9 A He didn't start working at the Post Office at
10 that time. He was working at Celanese Plastics and there
11 was some other company, but I don't remember the name of it.
12 It was just until the job went through at the Post Office.

13 Q He was waiting appointment, is that what you
14 are saying?

15 A Yes.

16 Q And he had these interim jobs?

17 A Yes.

18 Q At this apartment did he help you with the rent
19 and expenses at all?

20 A Yes, he did.

21 Q What was his contribution? I guess you shared
22 the household jointly?

23 A Yes, we did.

24 Q What was his contribution, approximately, if
25 you recall?

1 rgrf

McNeil-direct

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2 A For a week -- well, after he started working
3 at the Post Office it was like \$40 to-\$50.

4 Q Are you talking about on a weekly basis or some
5 other basis?

6 A Weekly.

7 Q That was his share of the rent and food and
8 so forth?

9 A Yes.

10 Q Were you also employed?

11 A Yes.

12 Q Did there come a time in March of 1970 when he
13 was rehospitalized?

14 A Yes.

15 Q Were you present when he went in?

16 A Yes.

17 Q Do you recall the circumstances of that admission?

18 A He started getting depressed again and I could
19 always tell and he could tell himself that he needed
20 medical attention.

21 Q By the way, when he was in the hospital in that
22 period of time ending February, from September 30, 1968
23 through February 20, 1969, do you remember getting a
24 call from another patient about some rather bizarre
25 incident that took place?

rgrf

McNeil-direct

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MR. PARKER: I will object to that as hearsay.

MR. MURRAY: May I finish the question?

Q At the hospital.

THE COURT: Objection sustained.

Q Did it ever come to your attention that your broker threatened suicide at the hospital?

A Yes. I had a call from the hospital.

MR. PARKER: I will object and ask that the answer be stricken.

THE COURT: Sustained.

MR. MURRAY: At this time I would like to refer to the hospital record.

THE COURT: The hospital record is something else. You are asking for hearsay and from a hospital, an inanimate object.

Q Did a patient from the hospital call you?

MR. PARKER: The same objection.

THE COURT: The same ruling.

Q Did you then go to the hospital after you received a call?

A Yes, I did.

Q Did you see your brother?

A Yes.

Q Did you speak to him?

rgrf

McNeil-direct

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1
2 A Yes.

3 Q Did you determine what had happened?

4 A He didn't tell me.

5 MR. PARKER: The same objection.

6 THE COURT: If you have a record, produce
7 the record or call the Court's attention to it. You have
8 an exhibit in evidence.

9 MR. MURRAY: I would like to call the Court's
0 attention to the Exhibit 1.

1 THE COURT: What page?

2 MR. MURRAY: I believe it is October 2nd.

3 THE COURT: Let me see the entry, please.

4 MR. MURRAY: I know the date, October 2, 1968.
5 I am just trying to find it.

6 MR. PARKER: Are you referring to the nurse's
7 note, entry 10/2/68, 10:30 p.m. "Patient ate a good break-
8 fast then started crying and said I am going to commit
9 suicide if it is the last thing I do. Then everyone
0 will be happy, including my mother. C. Reid."

1 Is that what you are referring to, Mr. Murray?

2 MR. MURRAY: Yes.

3 THE COURT: That is on the first admission,
4 then, isn't it?

5 MR. MURRAY: The first admission. That's what

1 rgrf

McNeil-direct

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2 I said. I believe I backtracked. I forgot to ask her
3 that. I believe I mentioned the first admission date
4 when I asked her that, your Honor.

5 MR. MURRAY: I will try to prepare a list before
6 the trial is over of various passages in the record.

7 THE COURT: You should have had it by now.

8 That is October 2, 1968, is that correct?

9 MR. MURRAY: I have sections of the record but
10 I don't have the pages and I haven't got the relationship
11 to where it is in the record.

12 THE COURT: All right.

13 That is from the nurse's notes, your Honor.

14 THE COURT: All right, proceed.

15 Q Do you remember going to the hospital on that
16 day, October 2, 1968?

17 A Yes.

18 Q Did you see your brother?

19 A Yes.

20 Q How did he appear to you?

21 A He was all nervous and upset.

22 Q Did you talk to a nurse who called himself
23 Tony, do you remember?

24 A I talked to Tony. I don't know if he was a
25 nurse.

1 rgrf

McNeil-direct

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2 Q An employee of the Veterans Administration?

3 A Right.

4 Q I gather you were not present when any event
5 took place, is that correct?

6 A No, I wasn't.

7 Q Getting back to the second admission again,
8 March 2, 1970 to March 30, 1970.9 Do you know whether your brother was released by
10 the hospital or did he sign himself out?

11 A That is his last visit you are speaking about?

12 Q No. He was admitted to the hospital originally
13 for a long time, the first incident where you picked
14 him up in Newark and that was September 30, 1968.

15 A Yes.

16 Q Then about a year ago or so he was in,
17 according to the stipulated facts, he was in the Veterans
18 Administration Hospital in Manhattan from March 2, 1970 to
19 March 30, 1970.

20 A Yes.

21 Q Do you recall the circumstances of his being
22 released on that stay?23 A I don't understand. You are telling me about
24 two occasions that he was in the hospital, right?

25 Q The first occasion he was released February

1 rgrf

McNeil-direct

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2 20, 1969, is that correct?

3 A Right.

4 Q Do you know if the hospital released him or if
5 he signed himself out?

6 A In 1969?

7 Q Where he stayed for quite a while.

8 A He was released. They released him.

9 Q How about the one on March 30, 1970, do you recall
10 if they released him or if he signed himself out?

11 A They released him.

12 Q Now I bring you down to July 19th.

13 Incidentally, after he was released from the
14 hospital on March 30, 1970, did he return to his employment
15 with the Post Office?

16 A Yes, he did.

17 Q And did he work there on a regular basis?

18 A Yes.

19 Q The next hospitalization I believe, according
20 to the stipulated facts, is in New York Hospital, July
21 19, 1972. Do you recall that incident?

22 A Yes.

23 Q Do you remember what his demeanor was, you know,
24 how he looked to you, just prior to his admission on
25 July 19, 1972?

1 rgrf

McNeil-direct

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2 A He always looked the same. He would always get
3 depressed and nervous.

4 Q When you say always the same, you mean just
5 prior to his admissions to the hospital, is that what
6 you are referring to?

7 A Yes.

8 Q Did he ever have these problems of depression
9 prior to his going into the Service?

10 A No.

11 Q At that point when he sought admission to the
12 Veterans Administration Hospital on July 19, 1972, did you
13 have any strong feelings about him? I mean, any particular
14 apprehensions?

15 A Well, when it was time -- when he wanted to
16 be released I did because, I didn't think he was ready to
17 be released.

18 Q Are you talking about now the release according
19 to the stipulated facts on August 14, 1972?

20 A Yes.

21 Q Do you recall the name of the doctor that
22 treated your brother at the Veterans Administration Hospital
23 in New York?

24 A Singer. Dr. Singer.

25 Q Was he the same doctor that treated him in

McNeil-direct

1 rgrf

2 that lengthy hospital stay originally?

3 A Yes.

4 Q And was he the one that was very familiar
5 with his case?

6 A Yes.

7 Q Do you recall the circumstances as to how he came
8 to be released on August 14, 1972?

9 A He signed himself out.

10 Q Did you have any discussion with Dr. Singer?

11 A Yes, I did.

12 Q Just prior to him signing himself out?

13 A Yes.

14 Q Do you recall the sum and substance of that
15 conversation?

16 A Well, I told him I didn't think Bobby was ready
17 to be released; that there were things that I could see
18 that he didn't show the doctor, that the doctor couldn't
19 see, although he was the doctor, but he would do things in
20 front of me that he wouldn't do in front of the doctor.
21 This way he felt the doctor would let him go.

22 Q I see. Did you tell the doctor about this?

23 A Yes, I did.

24 Q And what did he tell you about Bobby signing
25 himself out?

1 rgrf

McNeil-direct

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2 A He said he was of age and he couldn't keep him
3 there against his will.

4 Q Did Dr. Singer ever suggest to you the possibility
5 of a commitment order?

6 A No.

7 Q Did he ever ask you to sign a commitment order?

8 A Not to my knowledge, no.

9 Q Did anybody at the Veterans Administration ever
10 come over to you and ask you to sign commitment papers?

11 A No.

12 Q During all these hospitalizations?

13 A Right.

14 Q Did you see Dr. Singer in person or was it
15 over the telephone when he made these statements to you?

16 A I saw him in person and by phone.

17 Q Was that around the date when your brother signed
18 himself out, close to August 14, 1972?

19 A Right.

20 Q Did Dr. Singer tell you that your brother was
21 cured?

22 MR. PARKER: I will object to that as leading.

23 A No.

24 Q What did Dr. Singer say to you about your
25 brother's condition at that time?

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1 A Well, he said if it was left up to him he would
2 keep him there, but he couldn't keep him there against his
3 will.
4

5 Q After your brother signed himself out as you put
6 it, where did he go?

7 A Well, when he signed himself out it was early in
8 the afternoon and I don't know where he went, but he didn't
9 get home until late in the afternoon.

10 Q Then he arrived at your mutual residence late
11 that evening?

12 A Right.

13 Q Did he stay there for some period of time
14 thereafter?

15 A He stayed there until October 1st. Around then.

16 Q Well, we are talking about August 14, 1972. Did
17 there come a time when he left to go down south? According
18 to the stipulated facts he went to the Veterans Administration
19 Hospital August 20. So that would be about a week later,
20 is that correct? Does that help refresh your recollection?

21 A Which Veterans Administration, here?

22 No. He went down south.

23 A Yes.

24 Q On the 20th and 21st. Does that help refresh
25 your recollection?

rgrf

McNeil-direct

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1
2 A Yes.

3 Q Between the time that he went down south,
4 those few days later, and the time he was released, or
5 he signed himself out or whatever in New York, do you
6 recall how he looked?

7 A How he looked?

8 Q In other words, whether he was depressed, not de-
9 pressed or whatever.

10 A Well, he looked like he might have been getting
11 back into that stage again.

12 THE COURT: He looked like what?

13 THE WITNESS: He was going back into that stage
14 of depression, but not completely in it yet.

15 Q You were not present, were you, when you heard
16 your mother testify that she brought him to the hospital
17 in Fayetteville?

18 A No.

19 Q You were not present, you were in New York at
20 the time?

21 A Yes.

22 Q Subsequent to his release down there on
23 August 21st in Fayetteville, did there come a time
24 when he came back to New York?

25 A Yes.

1 rgrf

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2 Q Do you remember approximately when he came
3 back to New York?

4 A On or about September 19th.

5 Q 1972?

6 A Yes.

7 Q How did he look to you then?

8 A Well, he looked like he needed medical attention
9 and he told me this is why he came back.

10 THE COURT: Read the answer, please.

11 (Record read.)

12 Q Did there come a time when you went with him
13 somewhere to seek medical attention?

14 A Yes.

15 Q Do you recall the approximate date that was?

16 A September 20th.

17 THE COURT: The 20th of what?

18 THE WITNESS: 1972.

19 THE COURT: Of what month?

20 THE WITNESS: September.

21 Q That would be approximately a day or so after
22 he came back to New York?

23 A Yes.

24 Q And where did you go to seek this attention?

25 A To the VA on 23rd Street and First Avenue.

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2 Q Approximately at what time of day did you go
3 there?

4 A Around 5:30 or 6:00 o'clock.

5 Q In the evening?

6 A Yes.

7 Q This would be after your working hours?

8 A Yes.

9 Q Please tell the Court what you recall about
10 what transpired on that day when you went to the
11 Veterans Administration on or about September 20, 1972
12 at about 5:30 or 6:00 when you went to seek the care
13 for your brother.

14 By the way, he was with you, was he not?

15 A Yes.

16 Q All right, please tell the Court what you
17 recall.

18 A Well, when we went there and we told them who we
19 were and what we were there for they pulled his records
20 and they said that --

21 Q Would you like me to get you a glass of water?

22 A Yes.

23 (Pause.)

24 Q Would you be able to continue testifying?

25 MR. MURRAY: May I have the last question and

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2 her answer.

3 (Record read.)

4 A After they checked his records, they saw he signed
5 himself out and it was against the hospital rules to be
6 readmitted within 90 days.

7 Q Within 90 days you said?

8 A 90 days.

9 Q Is that what they told you?

10 A Yes.

11 Q First of all, when you went to the hospital
12 where did you go, if you recall?

13 A Emergency or admitting, one of the two.

14 Q In any event, somebody pulled his records as
15 you testified to?

16 A Yes.

17 Q Was your brother examined by a doctor on that
18 day?

19 A No.

20 Q Was this person who pulled his records working in
21 the office of some type?

22 A Yes. It was behind a partition anyways.

23 Q After you identified yourselves this person
24 pulled your brother's records?

25 A Or had someone bring the records, however they

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2 do it.

3 Q Was this person a doctor?

4 A I don't think so, no.

5 Q In any event, while you were present was your
6 brother examined by anybody?

7 A No.

8 Q You know, as a doctor would examine a person.

9 A No.

10 Q Was your brother questioned by anyone?

11 A No.

12 Q You were simply told that statement that you
13 mentioned, is that correct?

14 A I beg your pardon?

15 Q You were simply told that statement that you just
16 mentioned?

17 A Yes.

18 Q Did you tell that person as to how you felt
19 about your brother's problem at that point?

20 MR. PARKER: I will object to that as leading.

21 THE COURT: Well, it is leading but we will
22 take it anyway.

23 A I told him, but I don't remember what she said
24 besides the fact that the rules are the rules or whatever.

25 THE COURT: I can't hear you.

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MR. PARKER: I can't hear either.

THE COURT: Read the answer.

(Record read.

Q What did you tell that person about your brother's problem, do you recall? The sum and substance of it.

A That I felt he needed to come back into the hospital; that he was getting depressed again.

THE COURT: What else do you have?

MR. MURRAY: Just a moment.

Q Did you mention anything else that you can recall of any significance?

A Not that I can recall.

Q Do you know if your brother was being given medication at that point from the New York hospital?

A I can't recall, but it seems to me he could get a perscription, but I am not sure. He did have Thorazine at my house also.

Q Was he taking it?

A Yes. Sometimes he would take it and sometimes I would have to make him take it.

Q Would you say it is a fair statement you were having difficulty having him take it?

A Sometimes, yes. Other times, no.

Q Do you know if he was seeing any doctor from

1 rgrf

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2 the Veterans Administration on any basis during that
3 period of time, you know, subsequent to September 20th?

4 A No.

5 Q So he was not with the clinic so far as you know?

6 A No.

7 MR. MURRAY: I have no further questions, your
8 Honor.

9 CROSS EXAMINATION

10 BY MR. PARKER:

11 Q Mrs. McNeil, do you recall the amount of car
12 payments that your brother was making on the automobile
13 he purchased in 1969?

14 A I think it was \$110 or \$120 a month. I am not
15 sure.

16 Q Was he still making those car payments in 1972?

17 A When he was hospitalized you mean?

18 Q No. Just in 1972 was the car paid for?

19 A When he was able he was. When he wasn't, I was.

20 Q Were those car payments made right up until the
21 time of his death?

22 A Yes. The car was paid for, I think.

23 MR. MURRAY: You will have to speak up.

24 A Right up until the time of his death I think
25 the car was paid for already, I am not sure.

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Q Do you recall when the car was paid for?

A No, I don't.

Q So then when your brother was well and working at the Post Office, he was giving you \$50 a week --

A \$40 or \$50, I said.

Q \$40 or \$50 a week room and board and he was sending some money to your mother?

A Right.

Q How much was that?

A \$50 she said, didn't she?

Q Yes. And he was paying you say \$172 a month on his car?

A No, I did not.

MR. MURRAY: I don't believe she said \$172.

A I said \$110 or \$120, I don't recall.

Q I'm sorry. Do you recall how much he was being paid by the Post Office in 1970?

MR. MURRAY: Your Honor, I believe the postal records are here.

A No, I do not know exactly what he was being paid. All I know is he was bringing hom a decent salary.

MR. MURRAY: I believe the postal records are Plaintiffs' Exhibit 3 in evidence. They would be the best evidence.

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2 Q Do you remember when he began to work at the
3 Post Office? Was that before or after the second hospitali-
4 zation?

5 A I think it was before the second one.

6 Q Let me show you Exhibit 3.

7 Could that have been June of 1970 that he began
8 at the Post Office, Mrs. McNeil?

9 A It sounds like a good date.

10 Q That was after the second hospitalization.

11 A It was after.

12 Q So let me ask you again, was he with the Post
13 Office before the second hospitalization or was it
14 simply that he had made an application to the Post Office
15 for employment before the second hospitalization?

16 A Would you repeat that question, please?

17 Q Let me break it down.

18 Was he working for the Post Office before the
19 second hospitalization, as best you recall, or in fact
20 had he simply applied to work for the Post Office
21 before the March 1970 hospitalization?

22 A Didn't you just say the record says he started
23 in June 1970?

24 Q Yes, but I certainly don't want to testify for
25 you. I was asking you what you remember.

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MR. MURRAY: If she recalls.

Q If you recall. If you don't recall, you don't recall.

A I don't recall. I don't want to say I recall when I don't.

Q Mrs. McNeil, did your brother ever threaten suicide in your presence?

A No.

Q Did he ever attempt to harm you?

A No.

Q Did he ever do anything violent in your presence?

A The only thing he ever done was snatch the phone out of the wall, the wire.

Q You had Thorazine at your apartment on September 20, 1972?

A Yes.

Q How much Thorazine did you have?

A I don't remember. He would have it in his drawer and sometimes it would be in the bottle and sometimes it wouldn't. It was just that I knew the pill and if I was in his drawer I would find it and I would tell him you have some here. Take it and make yourself feel better.

Q Did you make him take Thorazine after September 20, 1972?

1 A After he couldn't get into the hospital, yes.

2 Q Do you know where he got that Thorazine, Mrs.
3 McNeil?

4 A He got it from the VA.

5 Q Did he get it from the VA Hospital at First
6 Avenue and 24th Street?

7 A Yes.

8 Q And do you know when he got it?

9 A No, I don't.

10 Q Is it fair to say that when he wanted Thorazine
11 he would get to the VA Hospital at First Avenue and
12 24th Street?

13 MR. MURRAY: I object to that, your Honor.

14 THE COURT: If she knows.

15 A Would you repeat the question, please?

16 Q I said is it fair to say that when he wanted
17 Thorazine he would get it from the VA Hospital at First
18 Avenue and 24th Street?

19 A Before the last time that he tried to get
20 admitted, yes, I would say yes, it is fair to say that.

21 Q Going back to your brother's return from Vietnam,
22 did he date women?

23 A Yes.

24 Q Very often?

Going back to about the time that your brother signed out of the Manhattan Hospital against medical advice, you testified before that you saw Dr. Singer at that time personally?

A Before --

Q I'm sorry. Around the time of your brother's signing himself out of the Manhattan VA against medical advice --

A Yes.

Q -- did you meet face-to-face with Dr. Singer?

A Yes, I did.

Q Was that on the day that Bobby signed out or was it on another day?

A No. I think he signed out on another day. I think we talked him into staying a few more days, but then he signed out. It wasn't on the same day.

Q Approximately how many days before his signing out was it?

A I don't recall how many days it was.

Q Do you recall what day of the week August 14th was?

A No.

Q I have got the 1927 calendar here. Would it refresh your recollection if I said that that was a Monday?

1 rgrf

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2 A August 14th?

3 Q Yes. The day that he signed out or perhaps
4 we can short circuit this.

5 MR. PARKER: Mr. Murray, will you look at the
6 calendar and stipulate that August 14th, the date --

7 MR. MURRAY: We don't have to stipulate. The
8 stipulated facts indicated that he was discharged on
9 August 14th.

10 MR. PARKER: Yes. Would you stipulate that that
11 is a Monday after looking at the calendar?

12 MR. MURRAY: Sure.

13 MR. PARKER: Okay. It is stipulated that was
14 a Monday, Mrs. McNeil.

15 Q Do you recall your brother being on a weekend
16 pass?

17 A Yes.

18 Q Was he home?

19 A Yes.

20 Q And that was on the 13th and the 12th, the days
21 before the 14th, is that correct?

22 A Yes. I think so.

23 Q He was due back at the hospital on the 14th,
24 is that correct?

25 A Either on Sunday night or Monday morning,

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McNeil-cross

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1 I don't recall exactly.

2 Q Do you recall when he left the house?

3 A No. If he left on Sunday he was supposed to be
4 back on Sunday night. If he left on Monday he was supposed
5 to be back on Monday morning.

6 Q Your face-to-face meeting with Dr. Singer,
7 how long before the weekend that he was home did that
8 conversation take place?

9 A I don't know if it was -- I don't remember how
10 many days it was.

11 Q On August 14th itself you had a telephone
12 conversation with Dr. Singer, is that correct?

13 The date that he signed out against medical
14 advice.

15 A Yes.

16 Q How did you find out that he was signing out
17 against medical advice?

18 A Because I called over there every day to see how
19 he was doing.

20 I went every night, but I called every day during
21 the day and being that I knew he was threatening to
22 sign himself out I was really calling there and he told
23 me.

24 Q Who did you call?

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1 A I used to speak to Tony or Dr. Singer. Most
2 of the time I spoke to Dr. Singer if he was available.

3 Q And this time you spoke to Dr. Singer?

4 A I think it was Dr. Singer or either Tony. At
5 any rate, they told me he has signed himself out.

6 Q And then you asked to speak to Dr. Singer?

7 A Yes.

8 Q Was Dr. Singer the only doctor treating your
9 brother?

10 A The only one that I know of. The only one
11 that I had contact with.

12 Q Prior to your brother going into the hospital
13 on July 19th do you recall on what day prior to that
14 he stopped working at the Post Office?

15 A No, I don't.

16 Q Was that about two months before he went into
17 the hospital that he stopped working at the Post Office?

18 A I don't recall if it was two months or not.

19 Q I am going to show you a nurse's note from
20 Plaintiffs' Exhibit 1 in evidence. See if that refreshes
21 your recollection as to when he stopped working at the
22 Post Office.

23 MR. MURRAY: I am going to object to that
24 on two grounds. That is not her memorandum. Secondly,
25

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even if he stopped working physically, as from the records that were subpoenaed in, he was officially on --

THE WITNESS: To tell you the truth, I don't know.

THE COURT: I can't listen to two people at one time.

MR. MURRAY: That is why I stopped.

I was saying officially he was on the payroll until October 1, 1972. The records are here.

MR. PARKER: Officially he was on the books.

THE COURT: Being officially on the payroll doesn't mean he was working.

MR. MURRAY: He was paid.

THE COURT: Counsel is trying to establish when he stopped working at the Post Office.

Q And you don't remember when he physically stopped working at the Post Office?

A No.

Q Do you remember if it was more than a week before he entered the hospital?

A I guess it was more than a week. I really don't know how long it was before.

Q Before your brother was admitted to the hospital on July 19th had you taken him to the hospital a few days

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before?

A To the VA here in Manhattan?

Q Yes.

A I don't recall.

Q You don't remember.

Turning to September 20, 1972, when in relation to that date did your brother return from North Carolina?

A On September. I think September 20th was on a Monday.

Q Looking at the calendar, that is a Wednesday.

A What is on a Wednesday, the 20th?

Q Yes.

A I guess he got back that Monday or Tuesday, I'm not sure.

Q So it could have been that the two of you went to the hospital a day or two after he got back from North Carolina?

A Right. I think it was the next day, though.

Q When he came back did he say to you, I want to go into the hospital?

A I knew that is what he came back for.

Q How did you know?

A My brother called me and told me he was coming back to go back to the hospital up here.

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1
2 Q So that it was his idea to go back into the
3 hospital?

4 A Right.

5 Q Is there any reason that you waited until
6 5:30 or 6:00 o'clock on the 20th to go to the hospital?

7 A Yes, because I was working and I wanted to go
8 with him.

9 Q Did you meet your brother somewhere before you went
10 over?

11 A No. I went home.

12 Q And the two of you left from home?

13 A Yes.

14 Q How did you get there?

15 A I think we drove. I am pretty sure we drove.

16 Q When you got to the hospital you went to the
17 admitting area?

18 A The admitting area, yes. Emergency or whatever
19 you want to call it.

20 Q And there was a person behind a partition that
21 you went to see?

22 A Yes.

23 Q Was it a male or a female?

24 A I don't recall whether it was male or female.

25 Q Was the person white or black?

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95A

2 A I don't recall that either.

3 Q When you arrived before this person who spoke
4 first?

5 A I think my brother spoke first.

6 Q What did he say?

7 A He told them his name.

8 Q And then what happened?

9 A And what he was there for.

10 Q What did he say exactly he was there for? Do
11 you recall your brother's words?

12 A No, I don't recall his words.

13 Q Who spoke next?

14 A The person behind the partition.

15 Q And what did the person behind the partition say?

16 A I think they either ask you for -- I don't know
17 if you have a card or what, but anyway, I don't know
18 how -- you just give your name and I don't know if you
19 have to have a card for them to pull your files or what,
20 but they tell you to have a seat and then they pull
21 your files and carry on from there.

22 Q Did the person behind the partition give you
23 anything to sign or give your brother anything to sign?

24 A I don't think so, no.

25 Q From the moment that you and your brother

rgrf

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arrived at the partition, how long passed from that moment until your brother and you were told that he could not be admitted to the hospital?

A I don't remember how long.

Q Was it a matter of seconds?

A No, it wasn't a matter of seconds, but I don't remember how long because they tell you to have a seat, so, I don't know.

Q You don't recall how long you were sitting?

A No.

Q Was there more than one person behind the partition?

A I think so. I am not really sure now.

Q Do you know where they took your brother's records from?

A No.

Q And you are not sure how long it took them to get the records?

A No.

Q But as best you remember, he signed no papers?

A I didn't see him sign any.

Q Were you with him all the time?

A Yes, I was.

Q After you sat down, what happened next?

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1
2 A Nothing happened that I can recall. We just
3 sat down and I just kept talking to him.

4 Q Did someone call out his name?

5 A Yes.

6 Q And then you went back to the partition?

7 A Right.

8 Q When you went back to the partition who spoke
9 first?

10 A I don't remember who spoke first. I guess
11 the person behind the partition spoke first and told us
12 why he couldn't be readmitted.

13 Q He explained right off why your brother couldn't
14 be readmitted or did he say something else?

15 A He said something about hospital rules.

16 Q Who spoke next?

17 A I don't know, but it was probably me.

18 Q Again, what did you say?

19 A I probably said why can't you take him back
20 in in his condition, regardless of the rules. First of
21 all, I had never heard of anything like that.

22 Q Did you call the hospital the next day to complain?

23 A I don't remember if I called the administrator's
24 office or not. I am not sure.

25 Q Did you take your brother to the hospital again

rgrf

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after that and demand to see a doctor?

A No.

Q After the 20th did your brother still say that he wanted to be hospitalized?

A He was taking the medicine that I had at home and he was, you know, calming down more and more, so I was just hoping that he could continue to calm down until at least his 90 days were up.

Q Is it correct to say that you didn't bring up the subject of hospitalization again?

A I don't know whether it is correct to say that or not because I said I don't remember.

Q You don't remember whether you discussed your brother's being hospitalized with him again until the time of his death, is that correct?

A Discussed it with my brother?

Q With your brother.

A I thought you said did I call the hospital.

Q I'm sorry. You don't recall whether you called the hospital?

A No, I don't.

Q Next let me ask you this: Did your brother say to you after the 20th that he wanted to go into a hospital?

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2 A Probably, because I think we went to the VA in
3 Brooklyn.

4 Q After the 20th?

5 A Yes.

6 Q Tell us what happened over there.

7 A Admitting told us it was best that he go back
8 to 23rd Street and First Avenue.

9 THE COURT: When did you go over to the hospital
10 in Brooklyn?

11 THE WITNESS: I don't remember what date it
12 was. It was after September 20th.

13 THE COURT: You don't recall how much after?

14 THE WITNESS: Maybe the next day or a day after,
15 I don't recall.

16 THE COURT: How much longer will you be with
17 this witness?

18 MR. PARKER: I don't have much more, your Honor.
19 Just a few minutes.

20 THE COURT: All right, finish with her.

21 MR. PARKER: Sure.

22 Q Other than going to Brooklyn did you call any
23 other hospital?

24 A I don't think so.

25 Q Your brother left your home around about

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McNeil-cross

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October 1st, about 10 days after the 20th?

A Y-es.

Q During that time, other than going to the Brooklyn hospital, did you take any other steps to see that your brother got medical care?

A We went to the Naval Hospital in St. Albans.

Q And what happened there?

A They told us the same thing, to take him back to First Avenue and 23rd Street.

Q Did you say to them, "We can't do that because of this 90-day rule"?

A Yes, I did.

Q What did they say to you over there?

A I think they said something to the effect they didn't understand why or something.

Q Did you see a doctor at St. Albans?

A I think so. I am not sure. I think we saw a doctor.

Q Was it the doctor who said he didn't understand this 90-day rule?

A It was either him or somebody -- I don't remember all the people that I talked to.

Q Did you see a doctor at the Brooklyn VA?

A I am not sure whether I saw a doctor or just

